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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,183	03/01/2005	Michel Lucas	FR 020092	7052
24737 7590 01/09/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER LEWIS, JONATHAN V	
			ART UNIT 2623	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/526,183

**Applicant(s)**

LUCAS ET AL.

**Examiner**

Jonathan Lewis

**Art Unit**

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claim 10 is rejected under 35 U. S. C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 10 defines a signal processing program embodying functional descriptive material. However, the claim does not define a computer readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to

be realized" - Guidelines Annex IV). That is, the scope of the presently claimed signal processing program can range from paper on which the program is written, to a program simply contemplated and memorized by a person.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsubara et al. (US Pat. No. 5,699,106).

Regarding claim 1, Matsubara et al. teaches a method of displaying at least one element of an interactive content on a screen intended to display data transmitted in a digital television format comprising subtitles (Fig. 6A, 601 shows subtitles sports/news), by means of a command interface comprising a plurality of inputs (Fig. 5 shows the command interface, the remote control), said method being characterized in that an element of the interactive content is comprised in an interactive subtitle (Fig. 6A, 1 Sports), an interactive subtitle being associated with a link table indicating at least one correspondence between an input of the command interface and another subtitle (Fig. 6B shows the two choices of baseball and tennis associated with sports), a subtitle being displayed from an interactive subtitle by activating the input of the command interface corresponding to this subtitle (Fig. 6A, 1 Sports is selectable by Fig. 5, 507 "OK" button).

Regarding claim 2, Matsubara et al. teaches a method as claimed in claim 1, characterized in that the digital television format is the DVB format and the interactive subtitles are DVB subtitles (Abstract).

Regarding claim 3, Matsubara et al. teaches a method as claimed in claim 1, characterized in that at least one of the elements of the interactive content is a permanent page, said permanent page being defined by a particular page type (Fig. 6A, sports and news are both permanent pages).

Regarding claim 4, Matsubara et al. teaches a method as claimed in claim 3, characterized in that said permanent page is transmitted in turns (col. 1, lines 59-66).

Regarding claim 5, Matsubara et al. teaches an audiovisual device for conceiving an interactive content in a digital television format comprising subtitles (col. 1, lines 50-62), said audiovisual device comprising means for inserting the interactive content in interactive subtitles and means for associating an interactive subtitle with a link table indicating at least one correspondence between an input of the command interface and another subtitle (col. 1, lines 50-62; Fig. 4A).

Regarding claim 6, Matsubara et al. teaches a system for processing data transmitted in a digital television format comprising subtitles (Fig. 6A, 601 shows subtitles sports/news; Abstract), said processing system comprising means for decoding at least an interactive subtitle comprising an element of an interactive content (Abstract), an interactive subtitle being associated with a link table indicating at least one correspondence between an input of a command interface and another subtitle (Fig. 6A/6B – sports are associated with baseball/tennis), and means for displaying a

subtitle on a screen as a function of an input of the command interface (col. 2, lines 3-9).

Regarding claim 7, Matsubara et al. teaches a data processing system as claimed in claim 6, said processing system also comprising means for storing at least one element of the interactive content (Fig. 1, 104).

Regarding claim 8, Matsubara et al. teaches a set top box comprising a processing system as claimed in claim 6 or 7 (Fig. 1, 102).

Regarding claim 9, Matsubara et al. teaches a communication network comprising at least a transmitter suitable for transmitting signals representing at least an interactive content (Fig. 6A shows the interactive content), a transmission network (col. 1, lines 5-10 disclose the cable television system), a receiver suitable for receiving said signals and a data processing system as claimed in claim 6 (Fig. 1, 102).

Regarding claim 10, Matsubara et al. teaches a digital television signal comprising elements of an interactive content in the form of interactive subtitles, an interactive subtitle being associated with a link table indicating at least one correspondence between an input of a command interface and another subtitle (Fig. 1, 101 shows the signal).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Houser et al. US Pat. No. 5,774,859

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Lewis whose telephone number is (571) 270-3233. The examiner can normally be reached on Mon - Fri 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on (571) 272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
BRIAN PENDLETON  
SUPERVISORY PATENT EXAMINER